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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **BAIL APPLN. 1085/2024**

SHANU

..... Petitioner

Through: Mr. Omkar Sharma, Mr. Anup Kr. Srivastva and Mr. Rahul Sharma, Advocates.

versus

THE STATE NCT OF DELHI & ANR.

..... Respondents

Through: Mr. Raghuinder Verma, APP for the State with SI Prem Kr., P.S. Maidan Garhi.

CORAM:

HON'BLE MR. JUSTICE VIKAS MAHAJAN

ORDER

14.05.2024

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1. The present application has been filed under Section 439 Cr.P.C. seeking bail in connection with FIR no. 271/2022, under Sections 186/353/307/427/429/120B & 25/27 Arms Act & Section 4/12 of DACP Act, registered at Police Station Maidan Garhi.
2. The case of the prosecution is that on the intervening night of 29/30.06.2022, the police received an information regarding movement of Cows in the area for the purpose of slaughtering. Following this, team was positioned for apprehending accused persons. At about 2:30 A.M. the secret informer pointed out towards a Honda City car coming from Bhati Mines and accordingly SI Manish Chaudhary signaled the driver to stop the car but the driver tried to escape and in the process, first rammed the Honda car into



the police barricades and then in the parked car of SI Manish Chaudhary. Five persons came out of the damaged Honda City car and one of them indiscriminately fired towards the police persons. Following this, accused persons were caught and during search of the car cattle meat was found and a desi Katta/Pistol was also recovered from co-accused Sajid.

3. The learned counsel for the petitioner submits that as per the allegations of the prosecution, the gun shot was fired by co-accused Sajid and the recovery of Katta/Pistol was also from the possession of the said co-accused. He submits that in so far as present petitioner is concerned, there is no recovery of any weapon nor any specific role has been attributed to the present petitioner. It is also the contention of the learned counsel that the petitioner is in custody for the last two years.

4. Further the investigation in the matter is complete and the chargesheet has been filed, therefore, the petitioner's custody is no more required.

5. He submits that in so far as petitioner's alleged involvement in five cases mentioned in the status report is concerned, the same are under the Delhi Agriculture Cattle Prevention Act, 1994 and the maximum punishment for the said offences is five years. He submits that the petitioner is already on bail in the said cases. He, therefore, urges the Court that the petitioner may be released on bail.

6. Per contra, learned APP has argued on the lines of the status report.

7. Heard the learned counsel for the petitioner as well as learned APP for the State.

8. On a query raised by the Court, learned APP on instructions from the IO fairly states that the gun shot was fired by co-accused Sajid and the recovery of Katta/Pistol is also from the said co-accused. In so far as present



petitioner is concerned, there is no recovery of any weapon. Further no specific role has been attributed to the present petitioner.

9. The investigation in the matter is complete. The chargesheet has been filed, therefore, the custody of the petitioner is no more required.

10. In so far as the other cases are concerned, it has been clarified by the petitioner that he is already on bail in the said cases. Even otherwise the involvement in other cases cannot be the sole criteria for denying the bail.

11. The petitioner is a permanent resident of Uttar Pradesh and it is not the case of the prosecution in the status report that the petitioner is a flight risk.

12. It is a matter of record that the prosecution has cited as many as 18 witnesses and till date only one witness has been examined, inevitably the trial is going to be a protracted one and in the circumstances of the present case, more particularly regard being held to the long custody of the petitioner, he cannot be kept incarcerated for indefinite period.

13. Considering the aforesaid circumstances in entirety, this Court is of the view that the petitioner has made out a case for grant of regular bail. Accordingly, the petitioner is enlarged on bail subject to his furnishing a Personal Bond in the sum of Rs. 20,000/- and one Surety Bond of the like amount to the satisfaction of the Trial Court/CMM/Duty Magistrate, further subject to the following conditions:-

- a) Petitioner shall appear before the Court as and when the matter is taken up for hearing.
- b) Petitioner shall provide mobile number to the IO concerned which shall be kept in working condition at all times and he shall not change the mobile number without prior intimation to the Investigating Officer concerned.



c) Petitioner shall not indulge in any criminal activity and shall not communicate with or come in contact with the witnesses.

14. The petition stands disposed of.

15. It is clarified that the observations made herein above are only for the limited purpose of deciding the present bail application and the same shall not be construed as an expression of opinion on the merits of the case.

16. Copy of the order be forwarded to the concerned Jail Superintendent for necessary compliance and information.

17. Order *dasti* under signatures of the Court Master.

18. Order be uploaded on the website of this Court.

VIKAS MAHAJAN, J

MAY 14, 2024/MR